IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 25350 of 2007(P)

PETITIONER:

V. CHANDRAN,S/O. RAMANKUTTY,
VALIPPILAKKAL HOUSE, ARATTUTHARA POST,
MANANTHAVADY, WYNAD DISTRICT.

BY ADV. SRI.N.RADHAKRISHNAN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, WAYANAD.

BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.25350 of 2007 P

Dated this the 22nd day of November, 2007.

JUDGMENT

Petitioner, who is working as a Village man, has been implicated in a vigilance case, alleging that he has received Rs.500/- from the de facto complainant for effecting mutation under the Transfer of Registry Rules. He was suspended on 7.10.2006. Though the petitioner sought for revocation of the suspension, the same has not been accepted. Petitioner continues under suspension. In the meanwhile, petitioner was appointed as a Lower Division Clerk under the Rural Development Department, Wayanad, as evidenced by Ext.P2. The appointment is subject to verification of the records regarding community, character and antecedents etc. Petitioner will have to be relieved from the Revenue Department, if he has to join the Rural Development Department. Petitioner submitted Ext.P3 before the District Collector, Wayanad requesting that he be relieved from service. No action has been taken thereon. Hence, this writ petition.

2. On instructions, learned Government Pleader submits that the petitioner does not have a right to compel the Government to accept his resignation. The acceptance of the resignation will depend upon several factors, as are mentioned in the Government

decisions under Rule 23 of Part I of the Kerala Service Rules. Particular reference is made to Government decision No.I (b) (ii), which reads as follows:

> **"Where a Government servant who is under suspension submits a resignation, the competent authority should examine with reference to the merits of the disciplinary case pending against the Government servant whether it would be in the public interest to accept the resignation. Normally, as officers are placed under suspension only in case of grave delinquency, it would not be correct to accept a resignation from an officer under suspension. Exceptions to this rule would be where the alleged offences do not involve moral turpitude or where the quantum of evidence against the accused officer is not strong enough to justify the assumption that if the departmental proceedings were continued, the officer would be removed or dismissed from service or where the departmental proceedings are likely to be so protracted that it would be cheaper to the Public Exchequer to accept the resignation."**

3. It is open to the government conduct an enquiry into the allegations levelled against the petitioner and then decide, whether he will have to be relieved from one Department of the Government to join another Department of the Government. Obviously, factors other than the mere interests of the petitioner would have to be considered in that regard.

4. I do not express any opinion on the contentions raised by this petitioner in this regard. It is for the respondents to take a decision.

Writ petition is, therefore, disposed of directing the 2nd respondent to take a decision on the petitioner's application as contained in Ext.P3 within one month from the date of receipt of a copy of this judgment. Petitioner shall be heard, if an adverse order is proposed to be passed against him.

Sd/-
(V.GIRI)
JUDGE

sk/

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P.S. To Judge